

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOHN C. FIERO,

Plaintiff,

vs.

UNION PACIFIC RAILROAD  
COMPANY,

Defendant.

**8:19CV96**

**PROGRESSION ORDER  
(AMENDED)**

The parties have filed a joint motion to extend certain progression deadlines. The motion states that Plaintiff suffers from profound hearing loss and an in-person deposition is preferred, however the COVID-19 pandemic has complicated travel and deposition plans. The court finds there is good cause for a continuance to hold an in-person deposition due to Plaintiff's hearing impairment.

IT IS ORDERED that the parties Joint Motion to Amend the Progression Order (Filing No. 20), is granted. The final progression order is amended as follows:

- 1) The Pretrial Conference is scheduled to be held before the undersigned magistrate judge on **March 23, 2022 at 9:00 a.m.** and will be conducted by internet/telephonic conferencing. Counsel shall use the conferencing instructions assigned to this case to participate in the conference. The parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to [zwart@ned.uscourts.gov](mailto:zwart@ned.uscourts.gov), in Word format, by 5:00 p.m. on March 18, 2022.
- 2) The deadline for completing written discovery under Rules 33, 34, and 36 of the Federal Rules of Civil Procedure is September 16, 2021. Motions to compel discovery under Rules 33, 34, and 36 must be filed by September 30, 2021.  
**Note:** A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.
- 3) The deadlines for complete expert disclosures<sup>1</sup> for all experts expected to

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<sup>1</sup> While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and

testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff(s):	May 17, 2021.
For the defendant(s):	July 20, 2021.

- 4) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is September 16, 2021.
- 5) The deadline for filing motions to dismiss and motions for summary judgment is November 3, 2021.
- 6) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is November 3, 2021.
- 7) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 8) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 9) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 26th day of January, 2021.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge

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treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.